

746000

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

APPEAL FROM THE SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

John D. McLeod, Judge

Appellate Case No. 2014-002372
Civil Action No. 14-ALJ-30-1256-AP

RECEIVED
JUL 13 2015
SC Court of Appeals

Lake City College Preparatory Academy Appellant,

v.

South Carolina Public Charter School District Respondent.

**RESPONDENT'S MOTION TO DISMISS
AND CORRECT THE RECORD ON APPEAL**

A. Mattison Bogan
Erik T. Norton
NELSON MULLINS RILEY & SCARBOROUGH LLP
Post Office Box 11070
Columbia, SC 29211-1070
(803) 799-2000

*Attorneys for Respondent South Carolina Public
Charter School District*

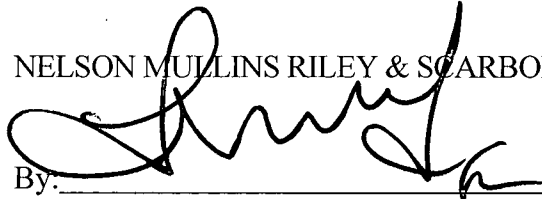
Respondent South Carolina Public Charter School District ("District") hereby moves to dismiss the instant appeal. Previously, the case was dismissed because Appellant failed to serve the Record on Appeal and its Reply brief as required. By Order dated June 23, 2015, the appeal was reinstated. However, Appellants' Final Brief and Final Reply Brief was deficient in several ways. By letter dated June 30, 2015, this Court directed Appellant to correct its Final Brief and Final Reply Brief within ten (10) days. Appellant failed to do so, failing to follow this Court's Rules for a second time, and this matter therefore should be dismissed.

Further, the Record on Appeal served by Appellant is replete with errors. For example, pages are out of order or missing, such as pages 212 and 213 of the transcript of the administrative hearing. See R. pp. 235-236. The Record on Appeal also includes confidential information by Appellants in the Record on Appeal. Specifically, Volume IV of the Record on Appeal, as served by Appellant, contains confidential information about students in violation of the Supreme Court's standing order regarding personal data identifiers and the Federal Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g and its implementing regulations. By letter dated May 20, 2015, the undersigned asked counsel for Appellants to substitute the Volume IV he appears to have filed with the redacted version filed in the Administrative Law Court. However, Appellant's counsel has failed to file the redacted version or respond to the request to do so. This is yet another reason to refuse to reinstate this appeal, but requires correction as soon as possible in any event in order to prevent disclosure of student information.

Therefore, Respondent moves to dismiss the appeal and correct the Record with a redacted version of Volume IV. In the event the appeal is not dismissed, Respondent moves

further to correct the Record on Appeal to include pages 212-213 of the transcript of the administrative proceedings.

NELSON MULLINS RILEY & SCARBOROUGH LLP


By: _____

A. Mattison Bogan
E-Mail: matt.bogan@nelsonmullins.com
SC Bar No. 72629
Erik T. Norton
SC Bar No. 73860
E-Mail: erik.norton@nelsonmullins.com
1320 Main Street / 17th Floor
Post Office Box 11070 (29211-1070)
Columbia, SC 29201
(803) 799-2000

Attorneys for South Carolina Public Charter School District

Columbia, South Carolina

July 13, 2015.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

APPEAL FROM THE SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

JUL 13 2015

John D. McLeod, Circuit Court Judge

SC Court of Appeals

Appellate Case No. 2014-002372
Case No. 14-ALJ-30-1256-AP

Lake City College Preparatory Academy, Appellant,

v.

South Carolina Public Charter School District, Respondent.

PROOF OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Respondent South Carolina Public Charter School District, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

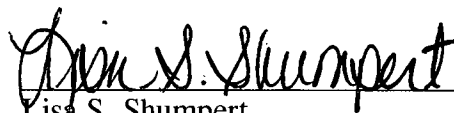
Pleadings:

**RESPONDENT'S MOTION TO DISMISS
AND CORRECT THE RECORD**

Counsel Served:

Johnny E. Watson, Sr.
2715 Edgewood Avenue
Columbia, SC 29204

Mark W. Buyck III, Esquire
Willcox Buyck & Williams, PA
Post Office Box 1909
Florence, SC 29503



Lisa S. Shumpert
Administrative Assistant

July 13, 2015

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP
Attorneys and Counselors at Law
1320 Main Street / 17th Floor / Columbia, SC 29201
Tel: 803.799.2000 Fax: 803.255.5904
www.nelsonmullins.com

Erik T. Norton
Tel: 803.255.9552
Fax: 803.255.5904
erik.norton@nelsonmullins.com

July 13, 2015

Hand Delivered

The Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
1015 Sumter Street - 5th Floor
Columbia, SC 29201

RECEIVED

JUL 13 2015

SC Court of Appeals

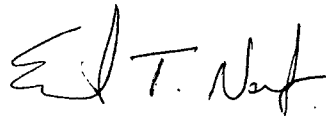
RE: Lake City College Preparatory Academy v. South Carolina Public Charter School District
Appellate Case No. 2014-002372
Our File No. 41106/01503

Dear Ms. Kitchings:

Enclosed please find the original and three copies of the Respondent's Motion to Dismiss and Correct the Record. We have also enclosed the required \$25.00 filing fee. We would appreciate your filing the original and appropriate copies and returning the remaining clocked-in copies to us.

By copy of this letter, we have served all counsel with a copy of same.

Very truly yours,



Erik T. Norton

ETN:ls
Enclosures

cc: Johnny Watson, Esquire
Mark W. Buyck, III, Esquire